UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,585	03/29/2004	Jeffrey A. Aaron	BELL-0340/00379 C1	2073

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EXAMINER
PATEL, NIRAV B

ART UNIT	PAPER NUMBER
2135	

MAIL DATE	DELIVERY MODE
04/21/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/811,585	AARON ET AL.
	Examiner	Art Unit
	NIRAV PATEL	2135

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>20 March 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>5</u> months from the mailing date of this final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *None*.

   Claim(s) objected to: *None*.

   Claim(s) rejected: *29,31-35 and 43-52*.

   Claim(s) withdrawn from consideration: *None*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
   See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

  /KIMYEN VU/
  Supervisory Patent Examiner, Art Unit 2135

Continuation of 3: The amended claims 45-52 are not entered. Even if the amendment to claims 45-52 is entered, the amended claims have not overcome 35 U.S.C. 101 issue. From the specification page 14, lines 20-26 it states "….the computer-readable medium is not limited to devices such as storage device 310. For example, the computer-readable medium may include a floppy disk, a flexible disk, hard disk, magnetic tape, or any other magnetic medium, a CD-ROM, any other optical medium, punch cards, paper tape, any other physical medium with patterns of holes, a RAM, a PROM, an EPROM, a FLASH-EPROM, any other memory chip or cartridge, a carrier wave embodied in an electrical, electromagnetic, infrared, or optical signal, or any other medium from which a computer can read…". Based on the cited disclosure above, it is determined that the computer readable medium carrying a signal (carrier wave) recites a non-statutory matter. Therefore, claims 45-52 are rejected under 35 USC 101.

Continuation of 11 does NOT place the application in condition for allowance because: Applicant's arguments filed 03/20/08 have been fully considered but they are not persuasive.

Regarding to applicant's argument to claims 29-52, Examiner maintains, since Aucsmith discloses that the server propagates any possible security problems seen by any of the client terminals to all of the client terminal so that all of the client terminals can defend against that possible security problem in real time. The server also uses the possible security problems reported by agent to help detect intrusion patterns, new intrusion techniques, and other security problems that may not be apparent to an individual client terminal (i.e. determining a second device that is anticipated to be affected by the anomaly ……..following the detection of the anomaly and prior to detecting at the second device). Therefore, Aucsmith teaches the timing relationship as argued/claimed. Further, Sheikh's invention relates to the monitoring of computer network system for security purposes, wherein the master transport located on a center server provides for the polling of one or more agent transports (serially or parallel), which are located throughout network. The central server evaluates the report received from the agent transport. Thus, Sheikh teaches the polling mechanism in the networked computer system to obtain the report/result. In this case, the combination of Aucsmith and Sheikh teaches the claimed subject matter and the combination is sufficient to incorporate the teaching of Sheikh into the teaching of Aucsmith to utilize the polling mechanism for inspecting network traffic and identifying any anomalies or suspicious activity. The modification would be obvious because one of ordinary skill in the art would be motivated to monitor the computer network system, for security purpose, that requires minimal resistance and maximum flexibility to scalability [Sheikh, paragraph 0003, 0009].

For the above reasons, it is believed that the rejections should be sustained.